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**SB-215 DNA evidence.** (2021-2022)

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**Senate Bill No. 215**

**CHAPTER 634**

An act to amend Sections 680.1 and 680.3 of the Penal Code, relating to evidence.

[ Approved by Governor October 07, 2021. Filed with Secretary of State October 07, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 215, Leyva. DNA evidence.

Existing law requires law enforcement agencies to report specified information regarding certain rape kit evidence, within 120 days of the collection of the kit, to the Department of Justice through a database established by the department. Existing law requires the department, on or before July 1, 2018, and in consultation with law enforcement agencies and crime victims groups, to establish a process by which victims of sexual assault may inquire regarding the location and information regarding their sexual assault evidence kits.

This bill would instead require the department to establish, on or before July 1, 2022, a process that allows a survivor of sexual assault to track and receive updates privately, securely, and electronically regarding the status, location, and information regarding their sexual assault evidence kit in the department's database. The bill would make additional conforming changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 680.1 of the Penal Code is amended to read:

**680.1.** The Department of Justice, on or before July 1, 2022, and in consultation with law enforcement agencies and crime victims groups, shall establish a process that allows a survivor of sexual assault to track and receive updates privately, securely, and electronically regarding the status, location, and information regarding their sexual assault evidence kit in the department's SAFE-T database.

**SEC. 2.** Section 680.3 of the Penal Code is amended to read:

**680.3.** (a) Each law enforcement agency that has investigated a case involving the collection of sexual assault kit evidence shall, within 120 days of collection, create an information profile for the kit on the Department of Justice's SAFE-T database and report the following:

- (1) If biological evidence samples from the kit were submitted to a DNA laboratory for analysis.
- (2) If the kit generated a probative DNA profile.

(3) If evidence was not submitted to a DNA laboratory for processing, the reason or reasons for not submitting evidence from the kit to a DNA laboratory for processing.

(b) After 120 days following submission of rape kit biological evidence for processing, if a public DNA laboratory has not conducted DNA testing, that laboratory shall provide the reasons for the status in the appropriate SAFE-T data field. If the investigating law enforcement agency has contracted with a private laboratory to conduct DNA testing on rape kit evidence, the submitting law enforcement agency shall provide the 120-day update in SAFE-T. The process described in this subdivision shall take place every 120 days until DNA testing occurs, except as provided in subdivision (c).

(c) Upon expiration of a sexual assault case's statute of limitations, or if a law enforcement agency elects not to analyze the DNA or intends to destroy or dispose of the crime scene evidence pursuant to subdivision (g) of Section 680, the investigating law enforcement agency shall state in writing the reason the kit collected as part of that case's investigation was not analyzed. This written statement relieves the investigating law enforcement agency or public laboratory of any further duty to report information related to that kit pursuant to this section.

(d) The SAFE-T database shall not contain any identifying information about a victim or a suspect, shall not contain any DNA profiles, and shall not contain any information that would impair a pending criminal investigation.

(e) The SAFE-T database shall, on or before July 1, 2022, allow a survivor of sexual assault to track and receive updates privately, securely, and electronically regarding the status and location of the survivor's sexual assault evidence kit, as provided in Section 680.1.

(f) On an annual basis, the Department of Justice shall file a report to the Legislature in compliance with Section 9795 of the Government Code summarizing data entered into the SAFE-T database during that year. The report shall not reference individual victims, suspects, investigations, or prosecutions. The report shall be made public by the department.

(g) Except as provided in subdivision (e), in order to protect the confidentiality of the SAFE-T database information, SAFE-T database contents shall be confidential, and a participating law enforcement agency or laboratory shall not be compelled in a criminal or civil proceeding, except as required by *Brady v. Maryland* (1963) 373 U.S. 83, to provide any SAFE-T database contents to a person or party seeking those records or information.

(h) The requirements of this section shall only apply to sexual assault evidence kit evidence collected on or after January 1, 2018.